

BARRY E. HINKLE, Bar No. 071223
 NICOLE M. PHILLIPS, Bar No. 203786
 CONCEPCIÓN E. LOZANO-BATISTA, Bar No. 227227
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 A Professional Corporation
 1001 Marina Village Parkway, Suite 200
 Alameda, CA 94501-1091
 Telephone (510) 337-1001
 Facsimile (510) 337-1023

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

KEN WALTERS and JOHN BONILLA, in their
 respective capacities as Trustees of the OPERATING
 ENGINEERS HEALTH AND WELFARE TRUST
 FUND FOR NORTHERN CALIFORNIA; BOARD
 OF TRUSTEES OF THE PENSION TRUST FUND
 FOR OPERATING ENGINEERS; BOARD OF
 TRUSTEES OF THE PENSIONED OPERATING
 ENGINEERS HEALTH AND WELFARE FUND;
 BOARD OF TRUSTEES OF THE OPERATING
 ENGINEERS AND PARTICIPATING
 EMPLOYERS PRE-APPRENTICESHIP,
 APPRENTICE AND JOURNEYMEN
 AFFIRMATIVE ACTION TRAINING FUND;
 BOARD OF TRUSTEES OF THE OPERATING
 ENGINEERS VACATION AND HOLIDAY PLAN,

Plaintiffs,

v.

DIAMOND OAKS CONSTRUCTION COMPANY,
 INC., A California Corporation,

Defendant.

No. C 04 – 04993 (JL)

**[PROPOSED] ORDER FOR
 APPEARANCE AND EXAMINATION
 OF DEBTOR ASSETS**

Date: January 11, 2005
 Time: 9:30 a.m.
 Place: Courtroom F, 15th Floor

TO: James S. Pelletier, Diamond Oaks Construction Company, Inc.

YOU ARE HEREBY ORDERED TO APPEAR personally before Magistrate Judge
 James Larson on Wednesday, January 11, 2005, at 9:30 a.m. in Courtroom F, 15th Floor, located at
 450 Golden Gate Avenue, San Francisco, California, to furnish information to aid in enforcement
 of the judgment entered against you on June 30, 2005 and to answer questions concerning property

1 in your possession or control as stated in Plaintiffs' Application for Order to Appear for Debtor
2 Examination, attached hereto as Exhibit "A". Also attached hereto as Exhibit "B" is a copy of the
3 Order for Appearance and Examination of Debtor Assets signed on November 30, 2005 by District
4 Judge Jeffrey S. White.

5 Dated: January 13, 2006

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7 107622/403930

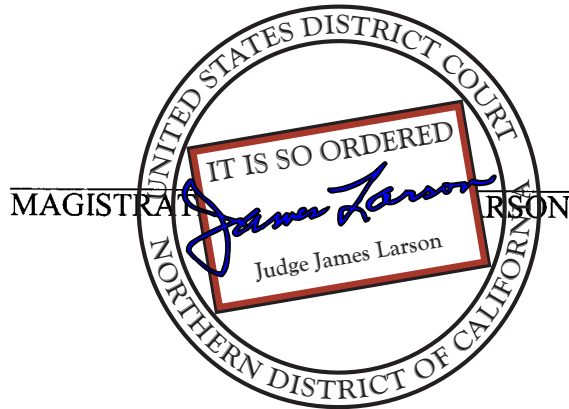


EXHIBIT A

BARRY E. HINKLE, Bar No. 071223
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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEN WALTERS and JOHN BONILLA, in their) No. C 04 – 04993 (FMS)
respective capacities as Trustees of the)
OPERATING ENGINEERS HEALTH AND)
WELFARE TRUST FUND FOR NORTHERN)
CALIFORNIA; BOARD OF TRUSTEES OF) **PLAINTIFFS' APPLICATION FOR**
THE PENSION TRUST FUND FOR) **ORDER TO APPEAR FOR DEBTOR**
OPERATING ENGINEERS; BOARD OF) **EXAMINATION**
TRUSTEES OF THE PENSIONED)
OPERATING ENGINEERS HEALTH AND)
WELFARE FUND; BOARD OF TRUSTEES)
OF THE OPERATING ENGINEERS AND)
PARTICIPATING EMPLOYERS PRE-)
APPRENTICESHIP, APPRENTICE AND)
JOURNEYMEN AFFIRMATIVE ACTION)
TRAINING FUND; BOARD OF TRUSTEES)
OF THE OPERATING ENGINEERS) Date:
VACATION AND HOLIDAY PLAN,) Time:
Plaintiffs,) Place:
v.
DIAMOND OAKS CONSTRUCTION)
COMPANY, INC., A California Corporation,)
Defendant.)

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APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION

TO: James S. Pelletier, Diamond Oaks Construction Company, Inc.

1. Plaintiffs, Ken Walters and John Bonilla, in their respective capacities as Trustees of the Operating Engineers Health and Welfare Trust Fund for Northern California; Board of Trustees of the Pension Trust Fund for Operating Engineers; Board of Trustees of the Pensioned Operating Engineers Health and Welfare Fund; Board of Trustees of the Operating Engineers and Participating Employers Pre-Apprenticeship, Apprentice and Journeymen Affirmative Action Training Fund; Board of Trustees of the Operating Engineers Vacation and Holiday Plan (hereinafter "Trust Funds" or "Plaintiffs"), Judgment creditors, make this application for an order requiring Diamond Oaks Construction Company, Inc. to aid in the enforcement of the money judgment against them entered on June 30, 2005 in the above-entitled Court, and to answer concerning property and assets for the period of January 1, 2002 through December 31, 2003.

2. Plaintiffs request that Defendant Diamond Oaks, through its agent James S. Pelletier, produce the following records to be examined:

- a. California Quarterly Report of Wages, For DE-6;
- b. Federal Tax Forms W-3 and W-2;
- c. 1096 and 1099 Forms;
- d. Workers Compensation Insurance Reports;
- e. Quarterly Payroll Tax Returns (Form 941);
- f. Check registers and supporting cash vouchers;
- g. General ledger (portion relating to payroll audit);
- h. Payroll Registers/Journals;
- i. Individual Earnings Records;
- j. Timecards for all employees;
- k. All time cards for employees who are Operating Engineers or who are performing the type and kind of work covered by the collective bargaining agreement;
- l. All payroll records consistent with item k;

- m. Contribution Reports for all Trust Funds;
- n. Cash disbursements ledger;
- o. Accounts payable ledger; and
- p. Vendor invoices.

Dated: November 21, 2005

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: /s/Concepción E. Lozano-Batista
CONCEPCIÓN E. LOZANO-BATISTA

107622/395377

EXHIBIT B

BARRY E. HINKLE, Bar No. 071223
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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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respective capacities as Trustees of the)	
OPERATING ENGINEERS HEALTH AND)	
WELFARE TRUST FUND FOR NORTHERN)	
CALIFORNIA; BOARD OF TRUSTEES OF)	PROPOSED ORDER FOR
THE PENSION TRUST FUND FOR)	APPEARANCE AND EXAMINATION
OPERATING ENGINEERS; BOARD OF)	OF DEBTOR ASSETS
TRUSTEES OF THE PENSIONED)	
OPERATING ENGINEERS HEALTH AND)	
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OF THE OPERATING ENGINEERS AND)	
PARTICIPATING EMPLOYERS PRE-)	
APPRENTICESHIP, APPRENTICE AND)	
JOURNEYMEN AFFIRMATIVE ACTION)	
TRAINING FUND; BOARD OF TRUSTEES)	
OF THE OPERATING ENGINEERS)	Date:
VACATION AND HOLIDAY PLAN,)	Time:
)	Place:
Plaintiffs,)	
)	
v.)	
)	
DIAMOND OAKS CONSTRUCTION)	
COMPANY, INC., A California Corporation,)	
)	
Defendant.)	

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PROPOSED ORDER FOR APPEARANCE AND EXAMINATION OF DEBTOR ASSETS

TO: James S. Pelletier, Diamond Oaks Construction Company, Inc.

YOU ARE HEREBY ORDERED TO APPEAR personally before ~~this Court, or~~ before a Magistrate at the time and place designated by the assigned Magistrate Judge referee appointed by the Court, on _____, 2005, at _____ in Courtroom _____, _____ Floor, located at 450 Golden Gate Avenue, San Francisco, California, to furnish information to aid in enforcement of the judgment entered against you on June 30, 2005 and to answer questions concerning property in your possession or control as stated in Plaintiffs' Application for Order to Appear for Debtor Examination, attached hereto as Exhibit "A".

Dated: November 30, 2005


UNITED STATES DISTRICT JUDGE

107622/397838